



Testimony by:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROY CATALANI
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

Wednesday, April 4, 2018
10:30 a.m.
State Capitol, Room 211

**H.B. 2601, H.D. 1, S. D. 1
RELATING TO TRANSPORTATION**

Senate Committee on Ways and Means

The Department of Transportation (DOT) offers **comments** to H.B. 2601, H.D. 1, S.D. 1 and appreciates the recognition of need for additional revenues, which, in this case, would be generated by a proposed Supplemental Rental Motor Vehicle User Fee that is intended for the DOT to implement capacity road projects statewide. This bill is intended to enable DOT to finance capacity improvement projects that would not otherwise be possible with our current levels of State and Federal funding.

The DOT references and defers to the Attorney General's testimony with respect to the legal issues of whether this bill is conflict with or is preempted by federal law, specifically, 49 U.S.C. § 47107(b)(1), violates the terms of federal grants or grant assurances, and/or conflicts with existing State law, specifically Section 261-5(a), Hawaii Revised Statutes.

If the event these legal issues are resolvable, the DOT offers comments from its Highways and Airports Divisions.

The Highways Division offers the following comments to this bill:

1. We recommend the term "road capacity projects" as mentioned in §248-9(c) be revised to "State Highway road capacity projects"
2. We recommend the second paragraph in §248-9(c) be revised to "For purposes of this subsection, "State Highway road capacity project" means right of way acquisition, planning, design and/or construction."

From the Airports perspective the DOT offers the following comments to this bill:

- Any additional fees to on-airport rental car users may decrease rental car transaction days in which customers may opt for another mode of transportation resulting in a reduction of rental transaction days, thus decreasing Customer Facility Charge (CFC) revenues needed to meet current bond covenants, satisfy existing debt service obligations, retain high bond ratings, and ensure the marketability of the next bond issuance to be utilized to complete the construction of the consolidated rental car facility projects at the Daniel K. Inouye Honolulu International and Kahului Airports.
- In addition to future rental car projects at other Hawaii airports. It could also impact rental car concession revenues and risk dilution to potential investors in any future CFC backed bond financing.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813
<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, April 4, 2018
Time: 10:30 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 2601, H.D. 1, S.D. 1, Relating to Transportation

The Department of Taxation (Department) offers the following comments on H.B. 2601, H.D. 1, S.D. 1, for the Committee's consideration.

H.B. 2601, H.D. 1, S.D. 1, increases the rental motor vehicle surcharge tax from \$3 to \$5 per day or part of a day for all lessees without a valid Hawaii driver's license. The bill also increases the tour vehicle surcharge by \$1 for each category of tour vehicle. H.B. 2601, H.D. 1, S.D. 1, requires that the revenues from the increase in rental motor vehicle surcharge tax be allocated to the county where the rental took place for use on building new roads or improving existing roads. H.B. 2601, H.D. 1, S.D. 1, becomes effective January 1, 2019.

The Department notes that applying the increased rate of rental motor vehicle surcharge tax only to those who do not have a valid Hawaii driver's license raises constitutional issues under the Equal Protection and/or Privileges and Immunities Clauses of the United States Constitution. The Department defers to the Department of the Attorney General for analysis of these issues.

Regarding the increase to the tour vehicle surcharge tax, the Department notes that it can administer the increase with current effective date.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, New
Surcharge for County Road Improvements

BILL NUMBER: HB 2601, HD-1, SD-1

INTRODUCED BY: Senate Committees on Transportation and Energy and Commerce,
Consumer Protection, and Health

EXECUTIVE SUMMARY: Establishes an additional rental motor vehicle surcharge of \$2 per day for those who rent motor vehicles without a valid Hawaii driver's license. The increment is to be deposited into the state highway fund but is to be used in the county in which the moneys are generated.

SYNOPSIS: Amends section 251-2, HRS, levying an additional rental motor vehicle surcharge of \$2 per day for those who rent motor vehicles without a valid Hawaii driver's license. The lessor is to disclose the portion of the remittance attributed to the county in which the motor vehicle was operated.

Also raises the tour vehicle surcharge tax \$1 per month for both categories of tour vehicles.

Amends section 248-9, HRS, to establish county subaccounts under the state highway fund. Funds in each county subaccount are to be expended for road capacity projects in the respective county. A "road capacity project" is defined as means construction: (1) of a new road; (2) to widen or add additional lanes to an existing road; or (3) that increases the amount of vehicles that may be driven on an island and alleviates the level of traffic on existing roads of that island.

EFFECTIVE DATE: January 1, 2019.

STAFF COMMENTS: The proposed measure would add another tax increase and would perpetuate the earmarking of rental motor vehicle and tour vehicle surcharge tax revenues. Yes, our highways and bridges need work, and the fuel tax that now feeds the highway fund has proven to be less stable as more and more consumers start using alternative fuel vehicles, electric vehicles, and hybrids. But does that justify burdening the visitor industry with yet another tax and without going through the normal appropriation and budgeting process that also considers sweltering primary schools, underfunded state pensions, or the unique costs of intercollegiate athletics?

Rather than the continual earmarking of revenues, a direct appropriation of general funds would be preferable. Earmarking revenues from any tax type for a particular purpose decreases transparency and accountability.

Next, it should be remembered that revenues diverted for a special purpose, in this case to fund highways and bridges, will not be counted against the state's spending ceiling or debt limit and will obscure the state's true financial condition.

Re: HB 2601, HD-1, SD-1
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Digested 3/30/2018



Robert Muhs, Esq.

Vice President Government Affairs,
Corporate Compliance &
Business Ethics

T - 973 496-3532

Robert.muhs@avisbudget.com

Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Wednesday, April 4, 2018; 10:30 AM
Hawaii State Capitol; Conference Room 211

RE: HB 2601 HD1 SD1 – Relating to Transportation – IN OPPOSITION

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee:

My name is Robert Muhs, Vice President Government Affairs, Corporate Compliance and Business Ethics for Avis Budget Group. Thank you for giving us this opportunity to offer testimony in opposition of HB 2601 HD1 SD1, which increases the rental motor vehicle surcharge from \$3 to \$5 for lessees without a valid Hawaii driver's license and requires that the revenues from the increase in the motor vehicle surcharge tax be expended for road capacity projects in the county in which the rental motor vehicle was operated under rental or lease.

Section 1 of the bill states this Act increases the rental motor vehicle surcharge tax on a rental motor vehicle that is rented from a rental motor vehicle concession located in an airport. Federal law mandates that revenues generated at the airport can only be used for airport purposes. If the highway projects are not for the airport area, this would be unlawful diversion of revenues. We also question whether an economic elasticity study has been done, as we believe this supplemental surcharge could lead to an overall decline of transaction days, thereby generating less overall revenue. A decline in transaction days could also directly impact the bond obligation for the consolidated rental car facility projects being built at the Daniel K. Inouye Honolulu International and Kahului airports.

Hawaii rental car customers currently pay the following charges - a rental motor vehicle customer facility charge of \$4.50 per day and a rental motor vehicle surcharge tax of \$3.00 per day which is applied to the state highway fund.

We urge the Committee to hold this measure.



SanHi

GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: April 3, 2018

TO: Senator Donovan M. Dela Cruz
Chair, Committee on Ways and Means
Submitted Via Capitol Website

RE: **H.B. 2601, H.D.1, S.D.1 Relating to Transportation**
Hearing Date: Wednesday, April 4, 2018 at 10:30 a.m.
Conference Room: 211

Dear Chair Dela Cruz and Members of the Committee on Ways and Means:

We submit this testimony on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, Enterprise CarShare and Enterprise RideShare (Van Pool).

Enterprise **opposes** H.B. 2601, H.D.1, S.D.1, which: (1) increases the rental motor vehicle surcharge tax for lessees without a valid Hawaii driver's license to \$5 for each day, or portion of a day, that a rental motor vehicle is rented from a rental motor vehicle concession located in an airport; (2) requires that the revenues from the increase in motor vehicle surcharge tax be expended for road capacity projects in the county in which the rental motor vehicle was operated under the rental or lease agreement; and (3) increases the tour vehicle surcharge tax by \$1 for each category of tour vehicle.

Enterprise is concerned that the language in H.B. 2601, H.D.1, S.D.1 is inconsistent. The rental motor vehicle surcharge tax, codified in HRS 251-2 applies to all rental motor vehicles leased statewide. Section 1 of H.B. 2601, H.D.1, S.D.1 states that the "purpose of this Act is to use additional fees from the rental of motor vehicles leased at state airports to fund projects to increase highway capacity and relieve traffic congestion." However, the bill does not limit the proposed increase to only those rental motor vehicles leased at state airports.

H.B. 2601, H.D.1, S.D.1, on its face, targets out-of-state visitors to Hawaii. Section 2 states, "...lessees without a valid Hawaii driver's license shall be assessed an additional \$2 a day, or any portion of a day that a rental motor vehicle is rented or leased." Clearly targeting individuals who do not hold a Hawaii driver's license may likely be found discriminatory if challenged in court. Furthermore, because H.B. 2601, H.D.1, S.D.1 may be in violation of the Privileges and Immunities Clause as the bill discriminates against nonresidents without any relation to a fundamental right or important economic activity.

Thank you for the opportunity to submit this testimony.

HB-2601-SD-1

Submitted on: 4/2/2018 4:40:12 PM

Testimony for WAM on 4/4/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Testifying for Kihei Community Association (KCA)	Support	No

Comments:

Aloha Chairs and Senators The Kihei Community Assoc, an all volunteer, unfunded, non-profit community advocate, is in support of this bill if amended to insure that funding will go to projects within the County where the surcharge was collected, to assure equitable distribution throughout the State. Maui has the greatest number of rental cars in the state. KCA supported the original bill when it was proposed for our (Maui) County, and understand the other regional reps saw a good concept and worked to insure it applied to their region. Please insure Maui reaps their fair share . Mahalo. Mike Moran